

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID ESCAMILLA,

PLAINTIFF,

v.

M2 TECHNOLOGY,

DEFENDANT

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CAUSE NUMBER 4:11CV516

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE**

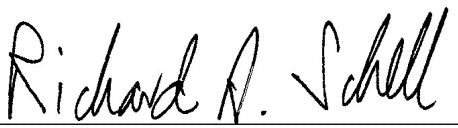
Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On July 6, 2012, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant's Motion to Dismiss for Failure to Join a Party (FRCP 12(b)(7)) and for Failure to State a Claim (FRCP 12(b)(6)) (Dkt. 61) be GRANTED for failure to comply with the court's order and join a necessary party, that Plaintiff's First Amended Motion for Preliminary Injunction (Dkt. 20) be DENIED, and that the case be dismissed without prejudice.

The court has made a *de novo* review of the objections raised by Plaintiff as well as Defendant's response (Dkts. 79 & 80) and is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit as to the ultimate findings of the Magistrate Judge. The court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court.

Therefore, Defendant's Motion to Dismiss for Failure to Join a Party (FRCP 12(b)(7)) and for Failure to State a Claim (FRCP 12(b)(6)) (Dkt. 61) are GRANTED for failure to comply with the court's order and join a necessary party, Plaintiff's First Amended Motion for Preliminary Injunction (Dkt. 20) is DENIED, and the case shall be dismissed without prejudice.

IT IS SO ORDERED.

SIGNED this the 28th day of September, 2012.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE